

**Minutes  
SPECIAL MEETING  
Bar Harbor Planning Board  
December 16, 2009  
Council Chambers – Municipal Building  
93 Cottage Street**

**I. CALL TO ORDER — 4:00 p.m.**

*Members Present: Kevin Cochary, Chair; Lynne Williams, Vice Chair; Buck Jardine, Secretary; Kay Stevens-Rosa, Member.*

*Others Present: Anne Krieg, Planning Director; Lee Bragg, Town Attorney; Brian Madigan, Staff Planner.*

**II. ADOPTION OF THE AGENDA**

*Ms. Williams moved to reverse the order of Item A and Item on the agenda. Mr. Jardine seconded the motion and the Board voted unanimously to approve the motion.*

*Ms. Williams moved to adopt the amended agenda. Mr. Jardine seconded the motion and the Board voted unanimously to approve the motion.*

**III. APPROVAL OF MINUTES**

**November 4, 2009 Minutes**

The Board had no changes on these minutes.

**December 2, 2009 Minutes**

Ms. Stevens-Rosa clarified that on page two of four she in fact stated she, “Asked the Fire Marshall his opinion of habitable space, and that she gave no reference to a specific project.”

Mr. Cochary abstained from the vote but noted he had watched the DVD’s from all meetings in his absence.

*Ms. Williams moved to approve the minutes from November 4, 2009 and December 2, 2009 meetings with the amendments noted above. Ms. Stevens-Rosa seconded the motion and the Board voted unanimously to approve the motion.*

**IV. REGULAR BUSINESS**

**A. Continuation of Public Hearing – SP-09-02 – West Street Hotel**

**Project Location:** West Street, Bar Harbor Tax Map 104, Lots 113-118, 122, 123, 143, 144, 146, 147, 149

**Applicant:** North South Construction Inc.

**Application:** Hotel and Accessory Uses

Mr. Cochary emphasized that all exchanges between the Board and the applicant need to be made through the chair.

Mr. Hamilton, the applicant's attorney, stated that he and Mr. Moore are in the process of revising plans and documents to comply with some of the outstanding items noted in the Draft Decision. In light of this, Mr. Hamilton requested that the Board review several items from the Draft Decision that they disagree with, or wish to clarify with the Board.

Starting on page two, Item C of the draft Decision, Mr. Hamilton stated he feels the proposed plan meets the height requirement of the ordinance.

Mr. Moore stated that he did not feel the greenspace credits should be removed from the site plan. Ms. Krieg clarified that the Board never offered a formal opinion on these credits. She also stated that in order to settle the greenspace credit issue, the Board would need to return to the definition of a front lot line.

Mr. Moore stated that he does not agree with Item E, Parking areas and driveways, but will revise the site plan to comply with this requirement.

Mr. Salvatore stated that he is working with abutting landowner Rick Leiser to resolve the outstanding property issues.

Mr. Theriault, the applicant's traffic engineer, noted several corrections to the previously revised traffic study. Mr. Theriault responded to item C page 7 of the Draft Decision. He stated that he performed an updated analysis for the build scenario and determined that the Level of Service (LOS) for West Street and Lennox Street would continue to perform as A. He also noted that Rodick Street would perform at LOS A. Only the intersection of Rodick and West Street would operate at LOS C, which is still an acceptable LOS under the Land Use Ordinance. Mr. Theriault submitted a revised report detailing these results.

The applicant requested planning staff clarify its basis for finding that Lennox Place has the potential to create queuing issues on West Street. Mr. Hamilton noted there is no evidence from the traffic study to support this finding.

Regarding Finding Q, Mr. Salvatore and Mr. Moore stated that they felt that washing streets once a day was an excessive and unnecessary requirement.

Mr. Hamilton requested that staff relay a copy of the Downtown Master Plan and Comprehensive Plan references used to support Finding FF. He also stated that he feels the court's ruling in the "Nestle Waters Case" would not support this finding.

Mr. Hamilton also requested the Board provide a clear ruling of its understanding of the definition of habitable space.

Mr. Hamilton and Mr. Moore stated that they disagree with Finding MM. Both stated that they do not feel this finding was applied appropriately because it is intended to apply to more rural areas. Ms. Krieg stated that if the Board does not agree they can

make that finding. Ms. Stevens-Rosa stated that she felt the shadow created by the addition of the building could be grounds to support the finding. Mr. Cochary stated that he did not find a strong connection.

Mr. Hamilton and Mr. Salvatore took issue with Item 3B under Additional Considerations. Mr. Hamilton stated that he did not feel it was appropriate for the Planning Board to micromanage the project at this level. He added that the Code Enforcement officer should be the responsible party in making this determination.

Mr. Salvatore stated that Additional Finding 2B is incorrect and that there is adequate space between the pool and fourth level. Mr. Salvatore added that the elevator to the roof labeled as a penthouse is not a mistake.

Ms. Krieg clarified that Mr. Reeves, the Public Works Director, has not signed the capacity statement because of reduction in right of way width on Lennox Place.

Ms. Krieg clarified that the applicant will need to go to Council after a decision is rendered by the Planning Board to gain Council approval of the changes proposed to the right's-of-way. She stated that if the Council rejects the road alignments proposed, the project would have to come back to the Planning Board.

Mr. Bearor stated that at some point the applicant needs to present a plan that the Planning Board can act on.

Ms. Rasmussen, an abutter to the proposed project, stated that she feels the Board and applicant accomplished a great deal at the last two meetings. She stated that she had reviewed the draft decision and was concerned with Finding FF because it is difficult to plan a project when it is not always clear if it complies with the intent of a previously adopted plan.

***Ms. Williams moved to continue the public hearing to the January 6, 2010 meeting. Mr. Jardine seconded the motion and the Board voted unanimously to approve the motion.***

**B. Completeness Review –SD-09-01 – Robert R. Rechholtz**

**Project Location:** 25 White Spruce Road, Tax Map 110 Lot 038

**Applicant:** Robert R. Rechholtz

**Application:** Subdivision

Mr. Cochary reviewed the application.

***Ms. Stevens Rosa moved to find application complete and schedule public hearing on January 6, 2010. Mr. Jardine seconded the motion and the Board voted unanimously to approve the motion.***

**V. OTHER BUSINESS****A. June 2010 Land Use Ordinance amendments**

The Board had no comments on this item. However, Ms. Krieg reminded the Board that they will be holding a Public Workshop on January 6, 2010 to discuss various Land Use Ordinances for the June Town Meeting.

**B. Town Hill Mini-Plan discussion**

Ms. Krieg stated that the Council decided to keep the maximum footprint square footage at 15,000 square feet with the stipulation that buildings with a footprint above 15,000 square feet be required to submit to a commercial PUD permitting process. The Council recommended that the PUD process include requirements for monument signage, LEED Certification, good neighbor planning, and include uses that Town wants to see out in this area such as arts and recreation.

The Board requested Ms. Krieg outline the scope of a wastewater feasibility study. The Board suggested this study consider the current water quality issues that face Town Hill, and what problems greater density might create.

Several members of the public presented their concerns with the Council's recommendations. Their concerns focused around maximum building square footage and footprint.

*Ms. Williams moved to ask Town Council to reconsider its vote in recognition that the Planning Board had understood its motion was to regulate a commercial PUD for total square footage of 15,000 square feet, and not just for footprint size. Mr. Jardine seconded the motion and the Board voted unanimously to approve the motion.*

**C. Scheduling Meetings for 2010**

Ms. Krieg noted that under the presented schedule, the Board will not hold a second meeting in February and April.

*Mr. Jardine moved to approve the meeting schedule presented. Ms Williams seconded the motion and the Board voted unanimously to approve the motion.*

**VI. PLANNING DIRECTOR'S REPORT**

Ms. Krieg had no comments.

**VII. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA**

There were none.

## VIII. ADJOURNMENT

***Ms. Williams moved to adjourn the meeting. Mr. Jardine seconded the motion and the Board voted unanimously to approve the motion. The meeting was adjourned at 6:38pm.***

Minutes prepared by Staff Planner Brian Madigan, and reviewed by Secretary Jardine, for Planning Board Review at their January 6, 2010 meeting

*Signed as approved:*

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Clyde L. Jardine, Jr., Secretary  
Planning Board, Town of Bar Harbor

Date